that the damages would be so speculative as to give equity jurisdiction. Other courts require that successive suits be brought for each accruing injury, *Terry* v. *Beatrice Starch Co.* (1895) 43 Neb. 866; *Hunt* v. *Tibbetts* (1879) 70 Me. 221, and here the jurisdiction could be sustained to avoid multiplicity of actions. *Shimer* v. *Morris Canal Co.* (1876) 27 N. J. Eq. 364; *Penn. Coal Co.* v. *Del. Canal Co.* (1865) 31 N. Y. 91. It would seem therefore that where actual damages are suffered equity will take jurisdiction, not because the contract is negative, but because of the inadequacy of legal remedy. In the principal case, however, the defendant offered to prove that there had been no actual financial loss. In such a case the plaintiff in law would be entitled to a judgment for nominal damages, Sedgwick on Damages, 8th ed. § 98; *Deere* v. *Lewis* (1869) 51 Ill. 254, and as such a judgment will not prevent a suit for subsequent actual damages, Sedgwick, supra, § 642, the legal remedy would seem amply adequate, and equitable jurisdiction would have to rest on a ground peculiar to these cases.

Where real estate is involved, equity takes jurisdiction regardless of the question of damages. Fry, supra, p. 13, note; *Hodges* v. *Kowing* (1889) 58 Conn. 12. There is little doubt, however, that when land is in dispute the unique nature of the subject-matter in a large majority of cases makes legal damages inadequate and speculative, and it would seem that even in this class of cases it is the imperfection of the legal remedy that gives the jurisdiction. Fry, supra, pp. 607 note, 34 note. It is hard to conceive of equity granting specific performance of a contract to convey land in a case where the complainant admitted that he bought the land only for speculation and that his only loss was a liquidated amount, due to a rise in the market value of the land. See *Richmond* v. *Railroad Co.* (1871) 33 Ia. 422; *Townsend* v. *Vanderwerker* (1891) 20 D. C. 197. Similarly, in uniliteral contracts containing a negative covenant it is said that the plaintiff should be entitled to specific performance of the promise because he has given a consideration; but the plaintiff's performance is valuable only to negative the lack of mutuality so frequently found in these cases, *Lindsay* v. *Warnock* (1894) 93 Ga. 619; *Welch* v. *Whelpley* (1886) 62 Mich. 15, and to give it a greater effect would seem to go too far. See 4 COLUMBIA LAW REVIEW 61. The principal case seems to go beyond any decided case, though it has the support of dicta in several decisions and follows an authoritative writer. Professor LANGDELL in 1 Harvard Law Rev. 383.

INCORPORATION OF RELIGIOUS SOCIETIES.—Though religious societies are usually denominated voluntary associations, statutes were early passed in most of the States providing for their incorporation, *Holt* v. *Downs* (1877) 58 N. H. 170, and at present a majority of the religious societies in this country conduct their affairs under a franchise. Ecclesiastical corporations ceased when the Constitution was adopted; *Turpin* v. *Locket* (Va. 1804) 6 Call 113; so that now religious corporations are not to be regarded as ecclesiastical is the sense of the English law, under which they were subject to ecclesiastical judicatories, but as belonging to the class of civil corporations, to be controlled by the ordinary rules of the common law. *Robertson* v. *Bullions* (1854) 11 N. Y. 243. Legislatures have shown no more hesitation in

mposing restrictions upon religious societies than upon persons associated together for profit. The most frequent limitation is as to the quantity of land which may be lawfully held, and New York at an early date prohibited a religious corporation from alienating its land without an order from the Supreme Court. 1 R. L. 1813, ch. 60, §11. In a recent case in that jurisdiction, *Feiner* v. *Reiss*, (1904) 90 N. Y. Supp. 568, the defendant objected to taking title to land from the trustees of the Shaker Society on the ground that this provision had not been complied with. It was conceded that the plaintiff had never received an express charter of incorporation, but under an early act of the legislature the society was given the right to hold property by its trustees in perpetual succession, Laws of 1839, ch. 174, p. 146, and the sole question for determination in the case was whether this act had converted the association into a corporation In deciding the question in the negative the court declared that a body of persons could not become a corporation except by express authority from the legislature; but it has been held that by the bestowal of corporate attributes the legislature may create a corporation without expressly declaring it to be such, *Watertown* v. *Watertown* (1841) 25 Wend. 686, and this result may happen even without legislative intent. *Thomas* v. *Dakin* (1839) 22 Wend. 9. Whether such has in fact been accomplished by the legislative action has been determined in various ways by the courts, but as a test they have generally fixed upon one or more of the results which naturally attended the creation of an entity, rather than the existence of the entity itself, which in *Andrews Bros.* v. *Youngstown Coke Co.* (1898) 86 Fed. 585, is said to be the true test. The right to sue and be sued under its assumed name is a natural attribute of a legal entity, but such a right is only procedural and it may be conferred without the creation of a corporation, as is held to be the case with joint-stock companies in New York. Perpetual succession is a test frequently adopted, but limited corporations are now the rule rather than the exception. In *People* v. *Coleman* (1892) 133 N. Y. 279, the test was said to be the immunity of the members of the corporation from liability for the debts of the corporation except by virtue of a positive legislative enactment, but this could be the result only of the creation of an entity which could contract those debts. No one of these qualities seems both exclusively and essentially the attribute of a corporation, but in the absence of restrictive legislation each would inhere in the creation by the legislature of an entity which could exist and act apart from the individuals who constitute its members, and this seems to be the true test for a corporation. That this result was accomplished in the principal case there seems to be no doubt. The right to hold property in perpetual succession is impossible in a natural person, and the bestowal of that power by the legislature necessarily created an entity. Kyd on Corps. 2, 3; 1 Blackstone 475. As a property holder this entity would act independently of its constituent members and suit would be brought by and against the entity, rather than the members, as was decided in *White* v. *Miller* (1877) 71 N. Y. 118. It would seem that this entity, empowered to take, hold and grant property, and to sue and be sued under its assumed name is a corporation fully competent to act in the business world.

In *People* v. *Coleman*, supra, the decision was that the association then under examination was not included within a statute imposing a tax on corporations. In the principal case there would seem to be a fair doubt as to the intent of the legislature to subject such organizations as the Shaker Society to the requirement imposed by the statute upon "religious corporations," and on this ground the decision might be supported.

CUMULATIVE PENALTIES AND STARE DECISIS.—The Court of Appeals of New York has decided that a statute requiring street railway companies to issue transfers in certain instances and allowing a recovery of fifty dollars to the aggrieved party "for every refusal" to issue them as required should be interpreted to mean that in an action by the aggrieved party only one penalty might be recovered, and that the institution of an action for such penalty was a waiver of the plaintiff's right to recover all penalties previously incurred. *Griffin* v. *Interurban St. Ry. Co.* (1904) 72 N. E. 513.

The decision is in harmony with a general policy on the part of the courts, and particularly those of New York, to construe statutes imposing penalties and forfeitures strictly, and to allow a recovery of only such penalties and forfeitures as the legislature clearly intended to impose. *Sturgis* v. *Spofford* (1871) 45 N. Y. 446. Cumulative penalties are not favored. *Morgan* v. *Hedstrom* (1900) 164 N. Y. 224, 232. Where the acts complained of are single in their nature and each a violation of the statute, cumulative penalties are allowed although not expressly provided for by the statute; *Milnes* v. *Bale* (1875) L. R. 10 C. P. 591; but where the acts can possibly be construed to constitute one continuous violation only one penalty can be recovered. See *Apothecaries Co.* v. *Jones* (1893) L. R. 1 Q. B. 89. Some States, and among them New York, have held that only where the statute was punitive would cumulative recoveries be allowed without some express declaration of the legislative intent; *People* v. *N. Y. C. Ry.* (1855) 13 N. Y. 78; and where the statute was remedial a clear declaration of the legislative purpose was required. *Parks* v. *Railroad Co.* (Tenn. 1884) 13 Lea 1; *Fisher* v. *N. Y. C. Ry.* (1871) 46 N. Y. 644. In each of these cases, however, there was a fair doubt as to the intent of the legislature; in the principal case there seems to be no such possibility. "For each refusal" is a phrase which every court dealing with a close case has suggested would indicate a clear intent on the part of the legislature to impose cumulative penalties, and the New York court allowed such penalties in the case of *Suydam* v. *Smith* (1873) 52 N. Y. 383, under a statute in which this phrase was used. The court bases its present decision on grounds of public policy.

Stare decisis is a doctrine only of policy, and its application must vary with the nature of the question involved. Inherently the doctrine contains no sufficient reason for a refusal to depart from it, but the courts have usually required cogent reasons for ignoring it, *Hamilton* v. *Baker* (1889) L. R. 14 A. C. 209, and where rights of property or of contract would be affected by a change of decision they have most consistently refused to depart from a former holding. *Pugh* v. *Golden Valley R. Co.* (1880) L. R. 15 Ch. D. 330; *Grignon's Lessee*